

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Transfer of Certain AODA Programs from DPI to DHFS (DPI and DHFS)

[LFB Summary: Page 316, #14 and Page 491, #46]

CURRENT LAW

The Department of Public Instruction (DPI) administers seven state-funded and one federally-funded alcohol and other drug abuse (AODA) prevention and intervention programs that provide funding to school districts.

Assistance to Schools for AODA Programs. DPI receives an allocation from the monies collected by the state through the 23% penalty assessment surcharge imposed on certain fines and forfeitures. DPI's share of this revenue, set by current statute at 13.6% of the total amount collected, is used to (a) provide grants to local school districts to fund projects related to the prevention of and intervention in pupil AODA problems; (b) provide grants for school staff development programs in AODA prevention, intervention and instruction; and (c) fund positions to administer the grants and provide in-service training, technical assistance and information to school districts. A local match of at least 20% of total project costs is required for all grants. In 1996-97, base funding for this grant program is \$1,296,200 PR, with an additional \$660,400 PR for program administration and technical assistance.

Early AODA Prevention and Intervention Programs. This program consists of four separate grant programs: (1) Drug Abuse Resistance Education (DARE); (2) Families and Schools Together (FAST); (3) pupil AODA projects; and (4) after-school/summer school grants. Total funding for these programs is \$2,720,000 GPR. DPI is statutorily required to allocate \$995,000 for DARE, \$1,000,000 for FAST, \$300,000 for grants for pupil AODA projects and \$425,000 for after-school/summer school grants. DPI is authorized to transfer funding among these programs if the amounts allocated will not be fully utilized in a given program. These transfers

must be made by November 1 or within 120 days after the effective date of the biennial budget act, whichever is later. Annually, DPI must submit a report to the Joint Committee on Finance describing all transfers.

Through DARE, a school board may contract with a city or county to provide drug abuse resistance education to pupils in grades three to nine using law enforcement officers trained in DARE instruction.

The FAST program provides early intervention and prevention services to pupils ages six through eleven who have a high risk of dropping out of school, experiencing AODA problems or being adjudged delinquent. Program activities must involve school, family and community participation, including mental health and AODA specialists. DPI may award grants up to \$50,000 to school districts with small and medium memberships (less than 10,000) and up to \$70,000 to school districts with large memberships (10,000 or more).

DPI awards pupil AODA grants of up to \$1,000 to school districts for education, prevention or intervention projects designed by pupils enrolled in the school district. Grants must be equally distributed on a statewide basis to the extent possible and must be used to pay for the costs of the pupil projects.

Finally, DPI awards after-school/summer school grants of up to \$30,000 to school districts with higher-than-average dropout rates to implement an after-school or summer school program for pupils in grades one to nine, in cooperation with community-based organizations. The program, which must be coordinated with the district's children-at-risk program and include tutoring services, is intended to develop pupils' interests and skills to prevent AODA problems. Grants may not exceed 80% of the cost of the program, and no more than 7% of the grant may be used for administration.

Youth AODA Programs. Grants are made to school districts for the development or expansion of K-12 AODA prevention and intervention curriculum or, if a district already has such a curriculum, the development or expansion of an AODA prevention and intervention program. Programs must meet standards established by DPI and are required to: (1) provide staff training in AODA prevention; (2) provide a pupil assistance program; (3) develop and implement a K-12 AODA curriculum; (4) provide instruction to pupils in ways to deal effectively with social pressures and gain positive self-esteem; and (5) give teachers release time to participate in training and pupil assistance programs. In awarding grants, DPI must give priority to school districts in which no pupil assistance program is available. In 1996-97, base level funding for youth AODA grants is \$1,800,000 GPR.

Alcohol and Traffic Safety Education Program. ATS is intended to inform pupils of the hazards of drunken driving through the provision of consultant services, curriculum development, in-service training and grants to school districts. Funding is derived from a portion of revenues collected through the \$300 surcharge paid by persons convicted of intoxicated driver offenses.

In 1996-97, base-level funding for ATS is \$225,200, of which \$100,000 is allocated for grants to school districts.

Safe and Drug Free Schools and Communities Act. According to federal law, the state educational agency must receive 80% of the state's funding under subtitle B of the Act. Ninety-one percent of DPI's portion of these federal funds are distributed to school districts and 9% is set aside for DPI administrative costs and technical assistance related to the program. Approximately 70% of the school district funds are distributed on a per pupil basis to each school district in the state and the remainder is distributed through a competitive grant process based on school district need, as determined through district grant applications. In 1996-97, a total of \$6,457,500 FED is budgeted under DPI for Safe and Drug Free Schools, including \$5,876,300 for grants and \$581,200 for administration and technical assistance.

GOVERNOR

Transfer the assistance to schools for AODA, FAST, after-school/summer school, pupil AODA and youth AODA programs from DPI to the Department of Health and Family Services (DHFS). Transfer from DPI to DHFS \$7,050,000 GPR and \$4,631,900 PR (a correction would be required to transfer the correct amount to DHFS), 5.0 PR positions and the incumbent employees holding positions in DPI that are primarily related to these programs. The GPR funding transferred to DHFS would be placed in one appropriation. Specify that DHFS would be required to allocate \$1,000,000 for FAST, \$300,000 for grants to pupil AODA projects, \$425,000 for after-school/summer school programs and \$1,800,000 for youth AODA programs.

Eliminate the current authorization for monies to be reallocated, as well as the reporting requirement relating to any reallocations. In addition, delete a requirement that the Department collect and analyze information about the projects funded under these programs and submit an evaluation report to the Legislature and the Governor by July 1 each year. Repeal the requirement that DPI and DHFS prepare a joint biennial report to the Legislature regarding a plan for the development, testing and implementation of cooperative and integrated school-community AODA prevention, intervention, treatment and rehabilitation services.

DISCUSSION POINTS

1. In September, 1996, based on a comprehensive audit of prevention programs for children, youth and families, the Legislative Audit Bureau (LAB) recommended that DHFS and DPI, the two state agencies responsible for nearly two-thirds of all state-level prevention programs, report to the Joint Legislative Audit Committee by April 1, 1997, on their plans to evaluate the prevention programs they administer and proposals to consolidate overlapping prevention programs for which they have responsibility.

2. In their reports to the Audit Committee, neither agency recommended consolidating programs across agencies due to differing target institutions, such as school districts versus county agencies, and prevention strategies. Instead, the reports focused on consolidation efforts within the separate agencies, coordination efforts across agencies and improved program evaluation efforts.

3. The LAB noted that most state and local staff interviewed for its September, 1996, audit report, indicated that there is some benefit to several agencies providing prevention services and administration. These staff suggest that supporting diverse approaches to prevention is more likely to result in multiple perspectives that lead to a useful debate on prevention policy.

4. The LAB reported that consolidating administrative responsibilities within a single state agency may have only limited benefits because (a) most prevention programs are already consolidated within DHFS or DPI; (b) programs of some agencies serve unique populations; and (c) federal laws and regulations place limits on how federal funding may be utilized and require that federal funds be awarded to designated state agencies. For example, even if the state-funded AODA programs were transferred from DPI to DHFS, the federally-funded Safe and Drug Free Schools program would have to remain in DPI due to federal requirements that 80% of these funds be allocated to the state educational agency.

5. The LAB audit identified 39 AODA programs in DHFS. The Governor's budget proposal recommends reorganizing the administration of several of these programs, but makes no effort to evaluate or consolidate them. It could be argued that it would be better to first assess DHFS's success in consolidating and evaluating its many AODA programs before transferring additional AODA programs to DHFS.

6. Although DHFS did not request the proposed transfer, DHFS supports the Governor's recommendation because DHFS staff believe it would increase the integration of school-based prevention services with other community programs that encourage positive behaviors in adolescents, including graduation from high school, self-sufficiency, avoidance of substance abuse, pregnancy and delinquency. DHFS argues that a more integrated approach to providing substance abuse services to adolescents would facilitate more coordinated, comprehensive and effective services to adolescents and their families. Further, because DHFS serves as the lead agency for providing services to children and families, staff at DHFS believe that it can best administer this integrated approach.

7. SB 77 would transfer other prevention programs to DHFS, including the community intervention program from the Department of Corrections and the funding and administrative duties for adolescent pregnancy programs from the Adolescent Pregnancy Prevention Services (APPS) Board, reducing the roles of other agencies in providing prevention services to specific populations. However, on April 24, 1997, the Committee chose to delete from SB 77 the Governor's recommendation relating to the transfer of responsibilities and funding between DHFS and the APPS Board.

8. Currently, DHFS does not administer AODA programs that directly fund prevention and intervention programs for school districts. However, DHFS administers 11 AODA grant programs specifically targeted at serving youth, ten of which are federally-funded programs. This includes six programs funded through the Governor's 20% share of Wisconsin's federal Safe and Drug-Free Schools and Community Act funds, which must be used for substance abuse and violence prevention services targeted at youth under the age of 18 with a focus on serving youth not served by the state's educational system and avoiding duplication of services.

9. Opponents of the Governor's proposal oppose the transfer of certain AODA programs from DPI to DHFS because each of the DPI state-funded, grant programs, except ATS, is counted toward state funding of 66.7% of partial school revenues. Arguably, school aid programs should remain consolidated in a single state agency. Additionally, the transfer would require school districts to deal with two different state agencies for both AODA funding and school aids and appears to contradict the goal of "one-stop shopping" for government services.

10. DPI argues that familiarity with the K-12 education system is an important element in administering prevention programs specifically for school districts. DPI attempts to combine AODA prevention programs into other areas such as curriculum and instruction development, teacher education and pupil health programs. Additionally, DPI has developed a single application and evaluation form for all AODA programs. By transferring those AODA programs to DHFS, they might not be integrated into larger K-12 educational programs and may not retain their school-centered focus.

11. On the other hand, DHFS is the state agency with primary responsibilities in children and family programs as well as health and prevention programs, and may be able to better integrate these AODA prevention programs into a community-based prevention strategy.

12. The bill would transfer five of DPI's seven state-funded AODA programs to DHFS. Both DARE and Alcohol and Traffic Safety Education (ATS) would remain in DPI. The ATS program is administered in coordination with the driver's education program and one staff member administers both programs with a focus on teaching safe driving practices; because ATS is not specifically an AODA prevention program, it may be more consistent with program objectives if ATS would be retained in DPI. However, it could be argued that DARE should be included in the AODA transfer to DHFS, especially since DHFS administers the federal portion of the DARE program.

13. The LAB reported that state agencies have generally provided insufficient evaluations of the effectiveness of prevention programs. It may be desirable to retain the requirement that the administering agency collect and analyze information about FAST, pupil AODA, after-school/summer school and DARE grants, evaluate their effectiveness and submit a report to the Legislature biennially.

14. If the Committee approves the Governor's recommendation, a correction would be required to transfer the proper amount of funding to DHFS.

ALTERNATIVES TO BILL

A. Transfer of AODA Programs

1. Approve the Governor's recommendation to transfer five school district AODA grant programs from DPI to DHFS, including a correction to the bill regarding program revenue reestimates, which would adjust funding by \$300 PR in 1997-98 and -\$651,500 PR in 1998-99.

<u>Alternative A1</u>	<u>PR</u>
1997-99 FUNDING (Change to Bill)	- \$651,200

2. Maintain current law, which would leave assistance to schools for AODA programs, youth AODA programs, DARE, FAST, after-school/summer school and pupil AODA grants, as well as program revenue funding for administration and technical assistance, and 5.0 PR positions in DPI. Adjust funding by \$300 PR in 1997-98 and -\$651,500 PR in 1998-99.

<u>Alternative A2</u>	<u>PR</u>
1997-99 FUNDING (Change to Bill)	- \$651,200

3. In addition to the transfer proposed under the bill, transfer the DARE program and \$995,000 GPR annually to DHFS.

B. Report on Effectiveness of Programs

1. Specify that the administering agency must submit a biennial report to the Legislature that evaluates the effectiveness of each of these AODA programs.

2. Take no action.

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ISSUE

Charter Schools -- Creation by Other Entities in the MPS District (DPI)

[LFB Summary: Page 484-85, #32]

CURRENT LAW

Charter School Establishment

An unlimited number of charter schools may be formed in the state; however, only local school boards may authorize the establishment of a charter school. There are two methods for creating a charter school.

First, a school board may, on its own initiative, contract with an individual or group to operate a school as a charter school. There is no requirement for a public hearing on the school board's proposal.

Second, a school board may authorize the establishment of a charter school upon receipt and approval of a written petition requesting the board to do so. The petition must be signed by at least 10% of the teachers employed by the district or by at least 50% of the teachers employed at one school in the district. The board must hold a public hearing within 30 days of receiving the petition. At the hearing, the board must consider the level of employee and parental support for the school. After the hearing, the board may grant the petition.

Legal Status of a Charter School

A charter school is an instrumentality of the school district in which it is located. Although a school board may contract with an individual or group to operate a charter school, all personnel of a charter school must be employed by the school board. Two or more school

boards may enter into a contractual agreement to establish a charter school, locating the school in just one of the establishing school districts.

Charter School Restrictions

A charter school cannot: (a) be a converted private school; (b) be sectarian in its programs, admissions policies; employment practices and all other operations; or (c) charge tuition.

Charter schools are also prohibited from discriminating in admission or denying participation in any program or activity on the basis of a person's sex, race, religion, national origin, ancestry, pregnancy, marital or parental status, sexual orientation, or physical, mental, emotional or learning disability.

Pupil Rights

No pupil may be required to attend a charter school without the approval of his or her parents or legal guardian, or the pupil's approval if the pupil is an adult. In addition, if a charter school replaces a public school, in whole or in part, the school must give preference in admission to any pupil residing within the attendance area of the current or former public school.

Charter School Requirements

A charter school is not subject to the provisions of Chapter 115 through 121 of the Wisconsin Statutes, which generally govern elementary and secondary education, except for the following requirements to:

- a. Participate in the state's pupil assessment program which currently includes the Wisconsin reading comprehension test at third grade and the knowledge and concepts examinations administered to fourth-, eighth- and tenth-grade pupils.
- b. Be included in a school district's annual school performance report.
- c. Ensure that all of the school's instructional staff hold a license or permit to teach issued by DPI.

The Department has promulgated an administrative rule defining "instructional staff" to mean all professional employees who have direct contact with pupils or with the instructional program of the school, including teachers, librarians, pupil services staff and administrative staff.

In addition, DPI has established, by rule, a special charter school instructional staff license and permit. The license may be issued to an individual who is already licensed by DPI and authorizes the individual to perform any instructional duty in a charter school.

Individuals who do not hold a DPI license or permit may be issued a renewable, one-year charter school instructional permit if the school district has conducted a search for a qualified, licensed individual and the individual receiving the permit: (a) has a bachelor's degree in the subject he or she would be teaching or in a related field, or has formal proof of mastery in the trade he or she would be teaching; and (b) receives six credits of training or education in each school year that he or she is employed by the charter school. An individual is exempt from the continuing education requirement if he or she: (a) holds a bachelor's or higher degree and is a full-time employe of an approved teacher preparation institution in Wisconsin; or (b) has a formal proof of mastery in a trade and is a full-time employe of a Wisconsin Technical College System district.

The Department's rule also requires that the responsibilities of an individual holding a charter school permit be coordinated, directed and inspected by a person who is licensed by DPI to teach the subject or trade which the permit-holder is teaching. Finally, the rule specifies that charter school instructional staff would receive the same immunity from liability as staff in non-charter schools.

Charter School Contract

If a charter school is established through the petition process, the school board is required to contract with the person named in the petition to operate the school. If a charter school is established on the initiative of the school board, the board may contract with an individual or group to operate the school. The contract may be for any term not exceeding five school years and can be renewed for one or more terms not exceeding five school years.

The contract and the petition must include the following 15 provisions and may include other provisions agreed upon by the parties:

1. The name of the person who is seeking to establish the charter school.
2. The name of the person who will be in charge of the charter school and the manner in which administrative services will be provided.
3. A description of the educational program of the school.
4. The methods the school will use to enable pupils to attain the state's educational goals and expectations under s. 118.01 of the statutes.
5. The method by which pupil progress in attaining the state's educational goals and expectations will be measured.
6. The governance structure of the school, including the method to be followed by the school to ensure parental involvement.

7. The qualifications that must be met by the individuals to be employed in the school although state licensure is required of instructional staff.
8. The procedures that the school will follow to ensure the health and safety of the pupils.
9. The means by which the school will achieve a racial and ethnic balance among its pupils that is reflective of the school district population.
10. The requirements for admission to the school.
11. The manner in which annual audits of the financial and programmatic operations of the school will be performed.
12. The procedures for disciplining pupils.
13. The public school alternatives for pupils who reside in the school district and do not wish to attend or are not admitted to the charter school.
14. A description of the school facilities and the types and limits of the liability insurance that the school will carry.
15. The effect of the establishment of the charter school on the liability of the school district.

Funding and Expenditures

The contract between the school board and the person operating the charter school must specify the amount to be paid by the school board to the charter school during each school year of the contract. The pupils enrolled in the charter school are included in the school district's membership and the contract costs are eligible for state sharing under the general school aid formula.

A charter school may participate in categorical school aid and grant programs, but such participation needs to be included in the charter. Further, a charter school has to comply with all requirements associated with the program in which it participates.

GOVERNOR

Authorize the Common Council of the City of Milwaukee, the Chancellor of the University of Wisconsin-Milwaukee (UWM) and the Milwaukee Area Technical College (MATC) District Board to establish by charter and operate, or contract with a group or individual to operate, a

charter school. Specify that a charter school established or contracted for would have to be located within the Milwaukee Public Schools (MPS) District and only pupils within MPS could attend the charter school. Provide that these charter schools would not be instrumentalities of the MPS district and MPS could not employ any personnel for these charter schools.

Specify that whenever one of these entities intends to establish a charter school, it would be required to notify DPI of its intention by February 1 of the previous school year. Provide that the Chancellor of UWM could not contract for the establishment of a charter school without the approval of the UW Board of Regents, although the Chancellor would be able to directly establish and operate a charter school without Regent approval.

Require the chartering or contracting entities: (1) ensure that all instructional staff of the charter school hold a license or permit to teach issued by DPI, and (2) administer the 4th, 8th and 10th grade knowledge and concepts examinations currently required by state law. The bill does not specify that the chartering or contracting entities would be required to administer the Wisconsin reading comprehension test given to third-grade pupils as required by all schools, including charter schools, under current law.

Provide that a charter for a charter school established by the City of Milwaukee, UWM or MATC would have to include all of the items for a petition to establish a charter school under current law, except: (a) the name of the person who would operate the charter school; (b) the name of the person who would be in charge of the charter school and the manner in which administrative services would be provided; and (c) the effect of the establishment of the charter school on the liability of the school district. Provide that a contract to operate a charter school would have to include all of the items required for a petition to establish a charter school under current law, except a description of the effect of the establishment of the charter school on the liability of the school district.

Create a sum sufficient appropriation within DPI to pay the operator of a charter school under this provision an amount equal to the shared cost per member of MPS in the previous school year multiplied by the number of pupils attending the charter school. (A corrective amendment would be needed to accomplish the intent of the draft.) DPI would have to make payments equivalent to 25% of the total in September, December, February and June of each school year and would send the check to the operator of the charter school. The Department would annually reduce the general school aids paid to MPS by the total amount paid to these charter schools. Specify that general school aids paid to other school districts would not be increased or reduced as a result of these payments or the reduction in aid to MPS and that the amount of the aid reduction for MPS would lapse to the general fund.

Exclude pupils attending charter schools established by the City of Milwaukee, UWM or MATC from the calculation of MPS's revenue limits, in the same manner that pupils under the existing Milwaukee parental choice program are excluded.

These provisions relating to the establishment of charter schools by the City of Milwaukee, UWM or MATC would take effect on July 1, 1998.

DISCUSSION POINTS

1. There are currently 13 charter schools operating in 11 school districts. The Madison Metropolitan School District and the Verona School District each operate two charter schools. MPS operates one charter school, which is the Highland Community School, a former private Montessori school that serves approximately 68 pupils.

2. In their budget requests, neither the UW System nor the Wisconsin Technical College System (WTCS) requested the authority to sponsor or establish charter schools. UWM reports, while the University was not included in the planning of the charter school proposal, it would consider establishing a charter school if it determines that such an initiative would be financially feasible and consistent with its goals as an institution of higher education. MATC indicates that it is supportive of the proposal and would partner with other entities to establish charter schools, but would most likely not run a charter school on its own. Arguably, as educational institutions with schools of education and/or K-12 partnerships, both UWM and MATC would have faculty and staff qualified to establish or sponsor a charter school. On the other hand, it could be argued that the focus of UWM and MATC should remain in the area of higher education and that their K-12 programming should be limited to partnerships with K-12 schools and specific educational programs for K-12 pupils and staff.

3. Both UWM and MATC indicate that they have positive relationships with MPS and currently are significantly involved with MPS pupils through numerous joint programs with the school district. UWM believes that the ability to sponsor the establishment of charter schools with entities other than MPS should be approached carefully in order not to hamper the University's relationship with MPS, and emphasizes that positive relations with MPS are vital to educational reform in Milwaukee.

4. The City of Milwaukee has stated that it would contract with other entities to establish charter schools, but has no plans to run its own charter schools.

5. According to data provided by the Education Commission of the States, there are 26 states with charter school laws; only three states (Michigan, Minnesota and North Carolina) allow entities other than a local school board, state education agency, state education board, state superintendent or state charter school board to sponsor a charter school. In these three states, state universities or technical and community colleges may sponsor charter schools; however, in both Minnesota and North Carolina, the state board of education must have the final approval of all charter schools. None of the 26 states authorize local governments to sponsor charter schools.

6. Most states, including Wisconsin, allow a broad spectrum of entities to operate charter schools, pending approval of eligible sponsors. Under current law, any UW campus, WTCS district or city government could operate a charter school, with the approval of a local school board. If these entities would wish to operate a public K-12 charter school, they could coordinate with a local school board for approval to operate a charter school. On the other hand, current law would not allow these entities the administrative and funding autonomy proposed under SB 77.

7. Charter school proponents argue that allowing entities, other than the MPS Board, to sponsor charter schools in Milwaukee would spur the establishment of more charter schools, heightening educational reform in the state's largest school district. Charter school proponents in Milwaukee argue that even if UWM, MATC and the City would chose not to establish charter schools, it is important to have multiple avenues through which charter schools could be established. Additionally, proponents argue that starting such an initiative in Milwaukee could provide information on the performance of charter schools and may lead to statewide expansion of the proposed initiative if it is successful.

8. Alternatively, opponents argue that school boards should be responsible for the establishment and general operation of any public K-12 school within a given school district. Additionally, they argue that the pace of charter school establishment is appropriate given the amount of planning required to establish and run an educational institution.

9. Currently, all public employes in the state of Wisconsin, except City of Milwaukee and County of Milwaukee employes, are participants in the Wisconsin retirement system (WRS). Under WRS, teachers, who generally provide nine months of service per year, are credited for 12 months of service for retirement purposes. Teachers at charter schools established by UWM or MATC would become employes of UWM or MATC and therefore, would be members of WRS. However, teachers at charter schools established by the City of Milwaukee would be employes of the City and would be members of the City's retirement system, which does not currently cover teachers and may only credit them for nine months of service for each school year versus the 12 months of service they would earn under WRS for each school year. Because newly-established charter schools would likely hope to hire experienced MPS teachers, the differing retirement system structure would provide a negative incentive for MPS teachers to teach in City of Milwaukee charter schools. However, the City could provide that teachers be defined as 12-month employes, as under WRS, which would mitigate this disincentive.

10. If the Committee wishes to extend to entities, other than the MPS School Board, the authority to create or contract for the establishment of charter schools, but would prefer to grant such authority only to educational institutions, the Committee could exclude the City of Milwaukee from the charter school proposal. Additionally, the Committee could exclude MATC or UWM because their current duties do not include oversight of K-12 education.

11. Under the Governor's proposal, operating funding would be provided to these charter schools through equivalent reductions in state aid to MPS. One could argue that funding should not be reduced from a school district in order to pay for the costs of establishing a new school which is not under the purview of the district. For example, if MPS's shared cost per member for 1997-98 school aids would be \$5,800, then a charter school serving 100 pupils established by one of these entities in 1998-99 would receive \$580,000 in state aid and MPS would lose the equivalent amount of revenue. In addition, these pupils would be excluded from the calculation of MPS's revenue limits. While MPS would lose pupils for which they must fund programs and classes, the funding reduction imposed on MPS may not equal the marginal cost of educating each pupil.

12. Charter school proponents argue that because the pupils served by the new charter schools would be MPS pupils, the loss in MPS revenue would simply be the amount of funding that MPS would have spent on those pupils. Additionally, because state statutes require that preference for charter school establishment should be for schools that serve children-at-risk, MPS may lose pupils who disrupt school operations or are more expensive to educate.

13. Under the Milwaukee parental choice program, the state pays the parent or guardian an amount that is equal to the lesser of: (a) MPS equalization aid payment per member for that school year (an estimated \$4,373 in 1996-97); or (b) the private school's operating and debt service cost per pupil that is related to educational programming, as determined by DPI. Unaudited shared costs in the prior year, 1995-96, totalled \$5,645. As a result, pupils in the proposed charter schools would have a greater impact on the aid received by MPS than pupils in the choice program. To reduce the effect on equalization aid to MPS, the Committee could use a calculation for the payment to these proposed charter schools based on equalization aid per member, rather than shared cost per member.

14. If UWM, MATC or the City of Milwaukee would choose to establish charter schools, they could incur significant startup costs and ongoing operating costs. A per pupil payment to these entities based on a lower per-member equalization aid amount, rather than per member shared costs as under the bill, may not provide sufficient resources for these charter schools to succeed.

15. Under the Milwaukee parental choice program, one of the limits on pupil eligibility is that in the school year prior to their initial enrollment, participants must have been either enrolled in MPS, the choice program or grades kindergarten through three in private schools located within the City of Milwaukee, or not enrolled in school. SB 77 does not establish a similar limitation, so that equalization aid and revenue limits for MPS could be reduced, if pupils who transfer from a private school would attend the proposed charter schools. In this case, the resources available to MPS would be reduced, even though MPS would not have realized any cost savings due to a reduction in the number of pupils. To address this concern, it may be desirable to establish the same limitation on pupil eligibility for this charter school proposal, as applies to the current Milwaukee parental choice program.

ALTERNATIVES TO BILL

2. Approve the Governor's recommendation with modifications to: (a) ensure that charter school operators administer the Wisconsin Reading Comprehension Test; (b) clarify that the aid payment and reduction would be equivalent; and (c) require UW Regent approval for all UWM charter school activities. In addition, approve one or more of the following changes:

b. Delete the provision to allow the Milwaukee Area Technical College to participate under the proposal;

d. Specify that the state would pay the charter school the lesser of: (1) the MPS equalization aid payment per member for that school year; or (2) the charter school's operating and debt service cost per pupil that is related to educational programming, as determined by DPI.

3. Maintain current law.

Public Instruction (Paper #670)

MO# 2e

BURKE	(Y)	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	(Y)	N	A
PANZER	(Y)	N	A
JENSEN	(Y)	N	A
OURADA	(Y)	N	A
HARSDORF	(Y)	N	A
ALBERS	(Y)	N	A
GARD	(Y)	N	A
KAUFERT	(Y)	N	A
LINTON	Y	N	A
COGGS	Y	N	A

AYE 9 NO 7 ABS

MO# 22

BURKE	<input checked="" type="radio"/>	N	A
DECKER	<input checked="" type="radio"/>	N	A
GEORGE	<input checked="" type="radio"/>	N	A
JAUCH	<input checked="" type="radio"/>	N	A
WINEKE	<input checked="" type="radio"/>	N	A
SHIBILSKI	<input checked="" type="radio"/>	N	A
COWLES	Y	<input checked="" type="radio"/>	A
PANZER	Y	<input checked="" type="radio"/>	A

JENSEN	Y	<input checked="" type="radio"/>	A
OURADA	Y	<input checked="" type="radio"/>	A
HARSDORF	Y	<input checked="" type="radio"/>	A
ALBERS	Y	<input checked="" type="radio"/>	A
GARD	Y	<input checked="" type="radio"/>	A
KAUFERT	Y	<input checked="" type="radio"/>	A
LINTON	<input checked="" type="radio"/>	N	A
COGGS	<input checked="" type="radio"/>	N	A

AYE 9 NO 8 ABS 0

PUBLIC INSTRUCTION

Charter School Instrumentality - MPS

Motion:

Move to require that the instrumentality of charter schools created by the Milwaukee Public (MPS) School Board would be determined as follows: (a) private schools that would be converted to charter schools would not be instrumentalities of the MPS District and MPS would not employ any of the charter school employees; (b) charter schools that would be created through the teacher petition process would be instrumentalities of the MPS District and MPS would employ all employees of the charter school; (c) the MPS School Board would determine whether or not all other charter schools established through MPS School Board action would be instrumentalities of the MPS district and that all employees of charter schools that would be instrumentalities of the MPS Board would maintain all collective bargaining rights.

Note:

Under current law, charter schools established by the MPS School Board are not considered instrumentalities of the MPS School Board and MPS does not employ any of the charter school employees.

MO# 4506

2	BURKE	<input checked="" type="radio"/>	N	A
	DECKER	<input checked="" type="radio"/>	N	A
	GEORGE	<input checked="" type="radio"/>	<input checked="" type="radio"/>	A
	JAUCH	<input checked="" type="radio"/>	<input checked="" type="radio"/>	A
	WINEKE	<input checked="" type="radio"/>	<input checked="" type="radio"/>	A
	SHIBILSKI	<input checked="" type="radio"/>	<input checked="" type="radio"/>	A
	COWLES	<input checked="" type="radio"/>	N	A
	PANZER	<input checked="" type="radio"/>	N	A
1	JENSEN	<input checked="" type="radio"/>	N	A
	OURADA	<input checked="" type="radio"/>	N	A
	HARSDORF	<input checked="" type="radio"/>	N	A
	ALBERS	<input checked="" type="radio"/>	N	A
	GARD	<input checked="" type="radio"/>	N	A
	KAUFERT	<input checked="" type="radio"/>	N	A
	LINTON	<input checked="" type="radio"/>	N	A
	COGGS	<input checked="" type="radio"/>	N	A
	AYE	<u>12</u>	NO	<u>4</u> ABS

Motion #4506

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Charter Schools -- Statewide Changes (DPI)

[LFB Summary: Page 486-487, #33, #34, #35]

CURRENT LAW

Charter School Establishment and Petition Appeals

An unlimited number of charter schools may be formed in the state; however, only local school boards may authorize the establishment of a charter school. There are two methods for creating a charter school.

First, a school board may, on its own initiative, contract with an individual or group to operate a school as a charter school. There is no requirement for a public hearing on the school board's proposal.

Second, a school board may authorize the establishment of a charter school upon receipt and approval of a written petition requesting the board to do so. The petition must be signed by at least 10% of the teachers employed by the district or by at least 50% of the teachers employed at one school in the district. The board must hold a public hearing within 30 days of receiving the petition. At the hearing, the board must consider the level of employee and parental support for the school. After the hearing, the board may grant the petition.

The Milwaukee Public Schools (MPS) School Board must grant or deny a charter school petition within 30 days after a public hearing. If the Board denies the petition, the person seeking to establish the charter school may, within 30 days after the denial, appeal the decision to DPI. The Department of Public Instruction (DPI) must issue a decision within 30 days after receiving the appeal. This decision is final and not subject to judicial review.

Charter School Contract

If a charter school is established through the petition process, the school board is required to contract with the person named in the petition to operate the school. If a charter school is established on the initiative of the school board, the board may contract with an individual or group to operate the school. The contract may be for any term not exceeding five school years and can be renewed for one or more terms not exceeding five school years.

Legal Status of a Charter School

A charter school is an instrumentality of the school district in which it is located. Although a school board may contract with an individual or group to operate a charter school, all personnel of a charter school must be employed by the school board. Two or more school boards may enter into a contractual agreement to establish a charter school, locating the school in just one of the establishing school districts.

Charter schools created within the MPS are not considered instrumentalities of the District. Personnel employed by these charter schools are not considered employees of the District.

GOVERNOR

Provide that a petition requesting a school board to establish a charter school would only have to be signed by at least 10% of the teachers employed by the school district or by at least 50% of the teachers employed at one school in the district if the proposed charter school would replace a public school in whole or in part. This modification would first apply to petitions submitted on the effective date of the bill.

Require that all school boards would have to grant or deny a charter school petition within 30 days following the currently required public hearing on the petition. Provide that if a school board would deny a petition, the person seeking to establish a charter school could, within 30 days after the denial, appeal the denial to DPI. DPI would have to issue a decision within 30 days; its decision would be final and not subject to judicial review. This provision would first apply to petition hearings that take place on the effective date of the bill.

Provide that charter school contracts could be for any term, which would apply both to the initial contract as well as to contract renewals. This provision would first apply to contracts entered into, extended, modified or renewed on the effective date of the bill.

Provide that the MPS school board would determine whether or not a charter school established by the district is an instrumentality of the district. Specify that if the MPS board would determine that the charter school is an instrumentality of the district, the board would have

to employ all personnel for the charter school. If the board would determine that the charter school is not an instrumentality of the district, the board could not employ any of the personnel for the charter school.

DISCUSSION POINTS

Petition Process for Charter School Establishment

1. In 1993 Act 16, the Legislature enacted the original charter school legislation and required teacher signatures for the establishment of charter schools through the petition process with the intention of requiring a certain level of support from teachers. The petition process enables teachers to request the establishment of a charter school even if a school board has not acted to do so independently.

2. The provision under SB 77 would retain the requirement for teacher signatures in the petition process only if a charter school would replace a public school in whole or in part. However, it could be argued that demonstrated teacher support should remain a consideration in the establishment of all charter schools, particularly when the establishment of a charter school may affect their terms of employment.

3. On the other hand, by requiring teacher signatures for the establishment of a charter school through the petition process, other groups, such as parents, business leaders and other community members, are hindered from starting a charter school that may not have the support of large numbers of teachers. Additionally, gathering such large percentages of teacher signatures in large school districts may place a disproportionate burden on groups, other than teachers, that wish to establish charter schools in these districts.

4. One could argue that support for the establishment of a charter school should be a consideration of a school board when considering such an action. However, general community support could continue to be gauged during public hearings on charter school petitions that would remain in the law under the bill.

Appeals Process

5. Proponents of the Governor's proposal contend that allowing charter school petitioners, in any school district, to appeal a school board's denial will increase the number of charter schools in the state, and allow for the consideration of charter petitions even in school districts in which the board is generally opposed to charter schools. Because the appeals process currently applies only to petitions to establish charter schools within MPS, this provision would provide a comparable process for all school districts. However, according to DPI, a charter school petition has never been appealed to the Department for charter schools proposed within the MPS district.

6. On the other hand, it could be argued that the decision to grant a charter school petition should rest with the school board, which would have a better understanding of the educational needs of the students in the district than would a state agency. Further, because charter schools are instrumentalities of local school boards (except in MPS) and therefore the legal, financial and administrative responsibility of a school board, it may be desirable to ensure that a school board would retain the final authority to grant or deny a petition to establish a charter school.

7. According to data provided by the Education Commission of the States, of the 26 states that currently allow the establishment of charter schools, ten states provide for some type of appeals process. Most of these states allow appeals to the state boards of education or the state education agency. In Florida, despite an appeals process to the state board of education, the final decision to establish a charter school remains with the local school board. In Minnesota, appeals to the state board of education are authorized only if at least two local school board members voted for the charter school petition. Georgia does not allow for an appeals process, but the state board may allow for the resubmission of a charter school petition to a local school board and assist in the improvement of the charter school application. If the Committee would wish to authorize an appeals process, but would wish to retain some local control of charter school petitions, it could authorize DPI to consider a charter school petition appeal only if at least one school board member in districts with three or five school board members or two school board members in districts with seven or nine school board members voted to support the petition.

8. If additional state assistance to local efforts to form charter schools is desired, the Committee could require DPI to provide technical assistance to charter school petitioners. To accomplish this, DPI could be provided with \$38,300 GPR in 1997-98 and \$51,100 GPR in 1998-99 and 1.0 GPR position beginning in 1997-98 to assist charter school petitioners in improving their applications for charter school establishment; this position could also assist the State Superintendent in determining appeals from charter school petitioners. Currently, DPI does not have a full-time staff member assigned to providing assistance to school districts in the area of charter schools. One staff member, with full-time duties in other areas, assists school districts, teachers and private citizens that request information and assistance on establishing a charter school.

9. Current law and SB 77 do not specify the criteria to be used by DPI in determining whether to grant or deny a charter school petition. In order to ensure consistency in appeals decisions, the Committee could require DPI to promulgate rules as to the procedures and criteria the agency will follow in deciding appeals.

Contract Term

10. Under current law, charter school contracts are limited to five-year terms. It may be desirable to retain the limited term of contracts, to ensure that school boards would have opportunities, within a relatively short period of time, to determine if a charter school is beneficial to the educational programs of the school district. The five-year contracts would enable school boards to avoid a long-term commitment to a charter school that is not performing well.

11. Under current law, if a school board would determine that a charter school has violated the terms of its contract, a school board could terminate a contract prior to the end of the five-year term. It could be argued that local school boards should decide the length of a charter school contract. If the board would determine that a longer-term contract is appropriate, it should have the opportunity to provide for such a charter school contract and could terminate the contract if the charter school violates the contract.

Instrumentality of School District -- Milwaukee Public Schools

12. Under current law, several exemptions and special provisions apply to MPS regarding the establishment of charter schools: (a) if the MPS School Board denies a charter school petition, the person seeking to establish a charter school may appeal the decision to DPI; (b) private schools may be converted to public charter schools; (c) several MPS employee status issues are prohibited subjects of collective bargaining (this provision has not been applied pending the outcome of current litigation); and (d) charter schools created within MPS are not considered instrumentalities of the District. Personnel employed by these charter schools are not considered employees of MPS.

13. Currently, all charter schools in the state, except those established by MPS, are instrumentalities of the school district in which they are established, which means school districts are legally and financially responsible for their charter schools and must employ all charter school employees. In the MPS district, charter schools are not instrumentalities of the school district and MPS does not employ any of the employees. MPS has established one charter school, the Highland Community School which is a former private Montessori school that serves approximately 68 pupils.

14. Currently, all public employees in the state of Wisconsin, except City of Milwaukee and County of Milwaukee employees, are participants in the Wisconsin retirement system (WRS). MPS employees are members of WRS, as are all public school employees, and teachers, who generally provide nine months of service per year, receive 12 months of retirement credit per year under WRS. Under current law, because charter schools established by MPS are not instrumentalities of the school district, employees of MPS charter schools cannot be members of

WRS, which provides a disincentive for MPS teachers to transfer to charter schools established by the district.

15. Proponents of the Governor's proposal believe that the flexibility provided to MPS in deciding the instrumentality of charter schools established by the district will spur the creation of charter schools within MPS. First, allowing MPS to establish charter schools that are instrumentalities of the district, would enable current MPS teachers to work in the newly established charter schools without losing their membership in WRS. Second, as under current law, MPS could create charter schools, such as converted private schools whose teachers are not current MPS employees, which would not be instrumentalities of the district.

16. Opponents of the proposal argue that both the provision under SB 77 and the current law provision regarding charter school instrumentality within MPS should be changed to ensure that all charter schools in MPS are instrumentalities of the district, as is provided for the other 425 school districts in Wisconsin. They believe that local school boards should control public K-12 education, and therefore should be responsible for the employees of all K-12 public schools established in Wisconsin.

ALTERNATIVES TO BILL

A. Petition Process for Charter School Establishment

1. Approve the Governor's recommendation to modify the charter school petition process.
2. Delete the Governor's recommendation.

B. Appeals Process

1. Approve the Governor's recommendation to establish an appeal process relating to charter school petitions.
2. Modify the Governor's recommendation through one or more of the following:
 - a. Authorize DPI to consider a charter school petition appeal only if at least one school board member in districts that have three or five school board members or at least two school board members in districts that have seven or nine school board members voted to support the petition.
 - b. Provide DPI with \$38,300 GPR in 1997-98 and \$51,100 GPR in 1998-99 and 1.0 GPR position beginning in 1997-98 to provide technical

assistance to charter school petitioners in improving their applications for charter school establishment, assist the State Superintendent in determining appeals from charter school petitioners and provide information to persons interested in charter school issues.

<u>Alternative B2b</u>	<u>GPR</u>
1997-99 FUNDING (Change to Bill)	\$89,400
1998-99 POSITIONS (Change to Bill)	1.00

c. Require DPI to promulgate rules as to the procedures and criteria the agency will follow in deciding charter school appeals.

3. Delete the Governor's recommendation.

C. Contract Term

1. Approve the Governor's recommendation to specify that contracts could be for any term, rather than for at most five years as under current law.

2. Delete the Governor's recommendation.

D. Instrumentality of School District - Milwaukee Public Schools

1. Approve the Governor's recommendation that the MPS school board would determine whether or not charter schools established by the district would be instrumentalities of the MPS district.

2. Delete the Governor's recommendation.

3. Delete the Governor's recommendation and instead, specify that charter schools established by MPS would be instrumentalities of the district.

Prepared by: Ruth Hardy

MO#

A-2

BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
1 WINEKE	Y	N	A
2 SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A
JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A

AYE 8 NO 8 ABS 0

MO#

B-2c

BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A
JENSEN	Y	N	A
1 OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
2 GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A

AYE 14 NO 2 ABS 0

MO#

C-2

BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
2 SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A
JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A

AYE 8 NO 8 ABS 0

MO#

D-3

BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
2 PANZER	Y	N	A
1 JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A

AYE 16 NO 0 ABS 0

PUBLIC INSTRUCTION

Charter School Instrumentality - MPS

Motion:

Move to require that the instrumentality of charter schools created by the Milwaukee Public School (MPS) Board would be determined as follows: (a) private schools that would be converted to charter schools would not be instrumentalities of the MPS District and MPS would not employ any of the charter school employees; and (b) the MPS School Board would determine whether or not all other charter schools established through MPS School Board action would be instrumentalities of the MPS district. Specify that the MPS School Board would employ all other employees of charter schools that would be instrumentalities of the MPS Board and that all employees of charter schools that would be instrumentalities of the MPS Board would maintain all collective bargaining rights.

Note:

Under current law, charter schools established by the MPS School Board are not considered instrumentalities of the MPS School Board and MPS does not employ any of the charter school employees.

MO#			
BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A
JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A

Motion #4504

AYE ____ NO ____ ABS ____

PUBLIC INSTRUCTION

Charter School Authorization for Establishment by CESA 6

Motion:

Move to allow the board of control of cooperative educational service agency 6 (CESA 6) to authorize the establishment of charter schools. Provide that CESA 6 could approve a petition from any group that is not affiliated with a religious organization that wishes to establish a charter school. Require CESA 6 to notify the Department of Public Instruction (DPI) that it has received such a petition and to include a description of the proposed charter school.

Require that a petition filed with CESA 6 include all of the information required under current law for a petition filed with a school board, except that the petition would have to include the effect of the establishment of the charter school on the liability of CESA 6, rather than a school district. In addition, require that the petition include the name of the school district in which the charter school would be located.

Require that each school district, from which pupils attend a charter school that has been established by a CESA 6, provide funding to the charter school equivalent to at least 75% of the shared cost per member of the school district multiplied by the number of pupils enrolled in the charter school that reside in the school district.

Require the annual convention for CESA 6 to adopt bylaws establishing the procedure for reviewing and either granting or denying charter school petitions. Prohibit CESA 6 from granting a petition unless such bylaws are in effect. Require CESA 6 to either grant or deny a petition within 60 days after receiving it and to notify DPI of its decision. Prohibit the CESA 6 from granting a petition that would convert a public school to a charter school. Prohibit CESA 6 board of control from granting a petition for the establishment of a charter school located outside of the territory of CESA 6. Provide that only pupils that reside within the territory of CESA 6 may attend the charter school.

Provide that the following current law requirements would not apply to charter school established by CESA 6: (a) the school is an instrumentality of the school district in which it is located; and (b) the school board employs all personnel of the charter school.

Provide that charter schools established by CESA 6 would be required to meet the current law requirements for all charter schools.

Note:

This motion would allow the board of control of CESA 6 to approve petitions to establish charter schools.

MO# _____

BURKE	Y	(N)	A
DECKER	Y	(N)	A
GEORGE	Y	(N)	A
JAUCH	Y	(N)	A
WINEKE	Y	(N)	A
SHIBILSKI	Y	(N)	A
COWLES	Y	(N)	A
PANZER	Y	(N)	A
<u>Z</u> JENSEN	(Y)	N	A
OURADA	(Y)	N	A
HARSDORF	(Y)	N	A
ALBERS	(Y)	N	A
GARD	(Y)	N	A
KAUFERT	Y	(N)	A
LINTON	Y	(N)	A
COGGS	Y	(N)	A

AYE 5 NO 11 ABS _____